




UNITED STATES PATENT AND TRADEMARK OFFICE

Chief Financial Officer and Chief Administrative Officer

January 05, 2010

TO: Fifth Third Bank
Attn: Merchant Services

FROM:  Douglas M. Lindsey

SUBJECT: Request for Information

We have received a request for information from your office stating that the cardholder believes there has been a duplicate billing associated with a \$ 1,005.00 credit card charge that was processed by the **U.S. Patent and Trademark Office (USPTO)** on November 30, 2010 and requests support.

It appears that Joseph Akwo Tabe, the cardholder and inventor of record submitted by fax to the USPTO a request to process a **PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT FOR MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))** on September 13, 2010. A \$ 1,005.00 sale was processed by the USPTO Office of Petitions on November 30, 2010 in association with this request. The Patent number associated with the submission was **6989740**. See attached a copy of the transmittal for the **PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT FOR MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**.

The USPTO's refund policy concerning Patent related payments states that once a customer submits to the USPTO a request for service the funds to pay for that service will not be refunded as that payment constitutes a processing fee. Charges payable to the United States Patent and Trademark Office are required to be paid in advance; that is, at the time of requesting any action by the Office for which a fee or charge is payable. A change of purpose after payment of a fee will not entitle a party to a refund of such fee under 37 CFR 2.209. Under 37 CFR 2.209, only money paid by mistake or in excess may be refunded. When a party takes an action "by mistake" the submission of fees required to take that action is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

Concerning the Reason Code: **82 – DUPLICATE PROCESSING**, there has been no other payment in the amount of \$ 1,005.00 processed against either credit card number the customer has used to make payments to the USPTO in the last six months. Also, the only other payment processed against **6989740** (and the corresponding application number) that was made by the customer is the \$ 600.00 for the maintenance fee which was processed with another credit card number.



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Concerning the **PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT FOR MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))** that the customer submitted to the USPTO's Office of Petitions on September 13, 2010, as of now there has been no ruling by the Office. The reason that there has been no ruling is at insufficient funds have been paid for the USPTO's Office of Petitions to proceed with prosecution.

After reviewing this request the USPTO's Office of Finance contacted Joseph Akwo Tabe to determine exactly what his issues are here. Concerning the **DUPLICATE PROCESSING**, It has been determined that the \$ 405.00 processed on September 14, 2010 is associated with an RCE for patent application number 11811477 and is a legitimate charge.

Concerning the **PETITION** that was submitted to the USPTO's Office of Petitions on September 13, 2010, Joseph Akwo Tabe claims that there was no authorization to charge his credit card forwarded with the **PETITION**. Also, the USPTO's Office of Finance has been able to locate the authorization to process the \$ 1,005.00 sale in question. Therefore it would seem appropriate to refund back to the cardholder the \$ 1,005.00 in credit card monies created on November 30, 2010.

To that end, the USPTO's Office of Finance requests that the Chargeback Area instruct the Credit Card Company to refund back to the cardholder the \$ 1,005.00 credit card monies that were processed on November 30, 2010 against **6989740** and notify the USPTO's Office of Finance once the refund has been affected.

The cardholder has been made aware of the fact that by processing this refund the **PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT FOR MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))** for **6989740** will be left in jeopardy.

If you have further questions concerning this matter do not hesitate to contact Douglas M. Lindsey in the USPTO's Office of Finance at (571) 272-6344.

Reference USPTO **CHARGEBACK CB DEC 11-36**

CHARTS # 0360202129-01